

STATE OF MISSISSIPPI



TREASURY DEPARTMENT
P.O. BOX 138
JACKSON, MS 39205-0138

INSTRUCTIONS FOR MISSISSIPPI UNCLAIMED PROPERTY LAW

TO: Businesses and Organizations
Life Insurance Companies

RE: Report and Remittance of Unclaimed Property
Mississippi Uniform Disposition of Unclaimed Property Act
Miss. Statute Section 89-12-1 to 89-12-57

The Mississippi Unclaimed Property Act requires businesses and other organizations to report to the State Treasurer certain funds and securities that have remained unclaimed for 5 years. This year, the Mississippi Unclaimed Property Division has made the reporting information available on the Treasury Department web site www.treasury.state.ms.us. The Mississippi Unclaimed Property Office can also accept annual reports of unclaimed property on diskette or CD following the website guidelines provided. If you have more than 10 owners to report, we would like holders to please consider using this reporting option. We hope the revised format and the simplified instructions allow holders to comply more easily.

For businesses and organizations, your 2011 Mississippi Unclaimed Property Report should include items outstanding before July 1, 2006 and still unclaimed. The Unclaimed Property Division should receive your report no later than November 1, 2011.

To ensure full compliance with the law, please read the instructions carefully. Please note address changes in the return address area. If thereafter you have any questions or you are unable to obtain a copy of the Guide from our web page, please do not hesitate to contact the Unclaimed Property Office at (601) 359-3534 or toll free in Mississippi 1-888-308-1997.

LYNN FITCH
STATE TREASURER

I. GENERAL FILING REQUIREMENTS

- A. Every holder of funds or intangible property covered by the act and presumed abandoned under the act shall report to the State Treasurer.
- B. The report shall be filed annually through 1984, and reports shall be filed every third year thereafter. The report shall be filed before November 1 of each year in which a report is required as of June 30 next preceding (2011,2014,2017,etc).
- C. The report shall be filed on forms provided by the State Treasurer or acceptable computer printouts may be filed in lieu thereof. The report must be verified on the form provided for verification.
- D. Items or accounts of less than \$100 need not be listed by name and address of apparent owner but may be reported in the aggregate.
- E. Timetable for filing for ALL companies:
 - 1. UP Reports 1 & 2 filed and remittance paid on or before November 1.
 - 2. Treasurer publishes notice within 120 days (no later than March 1).
- F. Before filing the required report of property presumed abandoned, the holder shall endeavor to communicate with the owner and take reasonable steps to prevent abandonment from being presumed. Under the statute, the mailing of notice to the last known address of the owner by the holder shall constitute compliance with the act.

II. WHO MUST REPORT

- A. Any holder of property belonging to another person when the owner has not claimed it or, in certain cases, corresponded with the holder or otherwise indicated an interest as specified in the act.
 - 1. “Banking organization” means any national or state bank, trust company, savings bank, land bank, private banker, or similar organization that is engaged in business in this state.
 - 2. “Business association” means any corporation, joint stock company, business trust, partnership, or any association for business purposes of two (2) or more individuals, whether organized for profit or nonprofit, including, but not limited to, a banking organization, financial organization, life insurance corporation and utility.
 - 3. “Financial organization” means any federal or state savings and loan association, credit union, cooperative bank or investment company, or any similar organization which is engaged in business in this state.
 - 4. “Holder” means any person in possession of property subject to the provisions of this act belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to the provisions of this act.
 - 5. “Insurance corporation” means any association or corporation transacting in this state the business of insurance involving in any manner a person or property.

6. “Owner” means a depositor in case of a deposit, a beneficiary in case of a trust, a creditor, claimant or payee in case of other chooses in action, or any person having a legal or equitable interest in property subject to the provisions of this act, or his legal representative.

7. Apparent owner” means the person who appears from the records of the holder to be entitled to property held by the holder.

8. “Person” means any individual, business association, government or political subdivision or agency, corporation, public authority, estate, trust, two (2) or more persons having a joint or common interest, or any other legal or commercial entity whether such person is acting in his own right or in a representative capacity.

9. “Utility” means any person who owns or operates in this state for public use, any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity water, steam or gas.

III. WHAT TO REPORT

Banking organizations, financial organizations, and business associations, must report:

A. Any demand, savings, or matured time deposit made in this state with a banking organization or financial organization, together with any interest or dividend thereon, excluding any charges that may have accrued, unless the owner has within five (5) years:

1. Increased or decreased the amount of the deposit, or presented the passbook or other similar evidence of the deposit for the crediting of interest; or
2. Corresponded in writing with the banking organization or financial organization concerning the deposit; or
3. Otherwise indicated an interest in the deposit as evidenced by a memorandum on file with the banking organization or financial organization.

B. Any sum payable on checks certified in this state or on written instruments issued in this state on which a banking or financial organization or business association is directly liable, including, but not limited to, certificates of deposits, drafts, money orders and traveler’s checks, that, with the exception of traveler’s checks, has been outstanding for more than five (5) years from the date it was payable, or from the date of its issuance if payable on demand, or, in the case of traveler’s checks, that has been outstanding for more than fifteen (15) years in the case of traveler’s checks or within seven (7) years in the case of money orders, corresponded in writing with the banking or financial organization or business association concerning it, or otherwise indicated an interest as evidenced by a memorandum on file with the banking or financial organization or business association.

Any certificate of deposit made in this state with a banking organization, together with any interest or dividend thereon, with a maturity date equal to or greater than ten (10) years shall be exempt from the time limit provisions of this act.

IV. LIFE INSURANCE CORPORATIONS MUST REPORT

A. Subject to the provisions of Section 89-12-7, funds held or owing by a life insurance corporation under any life or endowment insurance policy or annuity contract which has matured or terminated shall be presumed abandoned if unclaimed and unpaid for more than five (5) years after the funds became due and payable as established from the records of the corporation.

B. If a person other than the insured or annuitant is entitled to the funds and no address of such person is known to the corporation or if it is not definite and certain from the records of the corporation what

person is entitled to the funds, it shall be presumed that the last known address of the person entitled to the funds is the same as the last known address of the insured or annuitant according to the records of the corporation. This presumption is a presumption affecting the burden of proof.

C. A life insurance policy not matured by actual proof of the death of the insured according to the records of the corporation shall be deemed to be matured and the proceeds due and payable if:

1. The insured has attained, or would have attained if he were living, the limiting age under the mortality table on the reserve is based;
2. The policy was in force at the time of the insured attained, or would have attained, the limiting age specified in paragraph (a) of this subsection; and
3. Neither the insured nor any other person appearing to have an interest in the policy has within the preceding five (5) years, according to the records of the corporation:

a. Assigned, readjusted, or paid premiums on the policy.

b. Subjected the policy to loan, or

c. Corresponded in writing with the life insurance corporation concerning the policy

4. Any funds otherwise payable according to the records of the corporation shall be deemed due and payable although the policy or contract has not been surrendered as required.

V. UTILITIES MUST REPORT

A. Any deposit made by a subscriber with a utility to secure payment for, or any sum paid in advance for, utility services to be furnished in this state, less any lawful deductions, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than five (5) years after the termination of the services for which the deposit or advance payment was made.

B. Any sum which a utility has been ordered to refund and which was received for utility services rendered in this state, together with any interest thereon, less any lawful deduction, that has remained unclaimed by the person appearing on the records of the utility entitled thereto for more than five (5) years after the date it became payable in accordance with the final determination or order providing for the refund.

VI. A BUSINESS ASSOCIATION MUST REPORT

Any dividend, profit, distribution, interest, payment on principal, or other sum held or owing by a business association for or to a shareholder, certificate holder, member, bondholder, or other security holder, or a participating patron of a cooperative, who has not claimed it or corresponded in writing with the business association concerning it within five (5) years after the date prescribed for payment or delivery, shall be presumed abandoned. However, the property presumed abandoned under this act shall not include capital credits or patronage refunds offered for payment by nonprofit cooperative electric power associations or nonprofit cooperative water and sewer associations, but rather such unclaimed funds shall be used for the benefit of the general membership of such associations.

VII. PROPERTY HELD IN A FIDUCIARY CAPACITY

Any intangible personal property and any income or increment thereon, held in a fiduciary capacity for the benefit of another person shall be presumed abandoned unless the owner has, within five (5) years after it became payable or distributable, increased or decreased the principal, accepted payment of

principal or income, corresponded in writing concerning the property or otherwise indicated an interest as evidenced by a memorandum or other record on file with the fiduciary.

VIII. INTANGIBLE PERSONAL PROPERTY

Any intangible personal property not otherwise covered by the provisions of this act, including any income or increment thereon and deducting any charges that may have accrued, that is held in the ordinary course of the holder's business and has remained unclaimed by the owner for more than five (5) years after it became payable or distributable shall be presumed abandoned.

"Intangible personal property" means:

1. Monies, checks, drafts, deposits, interest, dividends, and income;
2. Credit balances, customer overpayments, gift certificates, security deposits, refunds, credit memos, unpaid wages, unused airline tickets, and unidentified remittances;
3. Monies deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions;
4. Amounts due and payable under the terms of insurance policies; and
5. Amounts distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.
6. Shares of corporate stock and other intangible ownership interests in business associations;
7. Bonds, notes and other debt obligations.

XI. INSTRUCTIONS FOR REPORTING STOCK CERTIFICATES

Effective July 1992, the Mississippi Unclaimed Property Law (Sec. 89-12-3, 89-12-11 Miss. Code Annotated) was amended to include shares of corporate stock. Therefore, we request that your company forward any shares of stock belonging to Mississippi residents to our master custodian as follows:

SETTLEMENT INSTRUCTIONS FOR TRUSTMARK NATIONAL BANK CUSTODIAN FOR THE STATE TREASURER

1. Please include copy of UP-1 and UP-2 reports with stock certificates
2. Securities held at Depository Trust Company (DTC)

Trustmark National Bank Participant #2852
Institutional and Agent I.D. #25093

3. Physical Securities

Trustmark National Bank/For Unclaimed Property
Attn: Machel Anthony
Trust Department
P. O. Box 291
248 East Capitol Street
Jackson, Mississippi 39205
(601) 208-5843 Phone
(601) 208-6383 Fax

Please fax a notice of your escheatment prior to delivery.

Please include the account number or name in the special instructions.

Thank you for your cooperation in this matter. If you have any questions, please call John Younger, Assistant State Treasurer, Unclaimed Property Division at (601) 359-3600.

X. PENALTIES

A. Any person who willfully fails to render any report or perform other duties required under the provisions of Section 89-12-47, Miss. Code Annotated, shall, upon conviction thereof, be punished by a fine of five dollars (\$5.00) for each day such report is withheld but not more than one hundred dollars (\$100.00).

B. Any person who willfully refuses to pay or deliver abandoned property to the Treasurer as required under the provisions of Section 89-12-47, Miss. Code Annotated, shall, upon conviction thereof, be punished by a fine of not less than five dollars (\$5.00) not more than one hundred dollars (\$100.00), or imprisonment for not more than six (6) months, or both, in the discretion of the court.

C. In addition to any damages, penalties, or fines for which a person may be liable under any other provision of law, any person who fails to report, pay or deliver abandoned property within the time prescribed by the provisions of the law shall pay to the treasurer interest at the rate of one percent (1%) per month on such property or the value thereof from the date such property should have been paid or delivered, but in no event prior to July 1, 1982; except that if the failure to report, pay or deliver is the result of mistake or other good cause shown, the Treasurer may reduce the rate of interest or waive the interest payable thereon.

XI. EXAMINATION OR RECORDS

A. The treasurer may at reasonable times and upon reasonable notice examine the records of any person to determine if such person has complied with the provisions of this chapter. The treasurer may designate the commissioner of banking and consumer finance, the commissioner of savings associations, or other appropriate regulatory authority to examine the records of institutions of regulated industries to determine if such institutions have complied with the provisions of the law.

B. If, in connection with such examination, property which should have been reported pursuant to the provisions of Section 89-12-45, Miss. Code Annotated, is discovered, the holder shall pay a per diem rate equal to actual costs per examination as the cost is conducting the examination.

C. If any person refuses to permit the examination provided in this section or to deliver property to the treasurer as required under the provision of this chapter, the treasurer shall bring an action in a court of appropriate jurisdiction to compel such examination or to enforce such delivery.

For additional information contact:

**Unclaimed Property Division
Mississippi Treasury Department
Post Office Box 138
Jackson, Mississippi 39205
Phone (601) 359-3534**

**LYNN FITCH
State Treasurer**